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In re Application of :
WALKER, et al. :
PCT No.: PCT/CA03/00021 : DECISION ON PETITION
Application No.: 10/541,487 :
Int. Filing Date: 08 January 2003 : UNDER 37 CFR 1.47(a)
Priority Date: None :
Atty. Docket No.: 8019P18 :
For: SCREW-IN POST SUPPORT :

This decision is in response to applicant's "Petition to Accept Application Under 37 C.F.R. §1.47(a)" filed 07 October 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 08 January 2003, applicant filed international application PCT/CA02/01787. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 July 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 July 2005.

On 07 July 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a declaration signed by co-inventor Simon Walker.

On 07 October 2005, applicant filed the present petition under 37 CFR 1.47(a) to accept the previously filed declaration without the signature of co-inventor Jenkin Suen.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items and it is appropriate to grant the

petition under 37 CFR 1.47(a).

Regarding item (1), applicant has provided payment of the appropriate petition fee.

As to item (2), applicant has provided a signed statement from counsel detailing the efforts to obtain the signature of the non-signing inventor Jenkin Suen. Specifically, the email communication between counsel and the inventor show that Jenkin Suen was sent a complete set of the application papers for the present U.S. National stage application on 08 July 2005 and confirmed receipt by voicemail on 09 July 2005. Thus, it is clear that the Mr. Suen had a clear understanding of the particular application to which his signature was requested. Mr. Suen's subsequent non-response and non-execution of the declaration constitutes a refusal for the purposes of 37 CFR 1.47(a).

Regarding item (3), applicant has supplied a statement of the last known address of Jenkin Suen.

As to item (4), applicant has provided a declaration executed by the co-inventor on his own behalf and on the behalf of the non-signing co-inventor, Jenkin Suen. Accordingly, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 08 January 2003 under 35 U.S.C. 363, and will be given a date of **07 July 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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